

REMARKS

Claims 32-44 and 53-61 are currently pending in the pending application. All of these claims currently stand rejected.

The Examiner has rejected Claims 32-43 and 53-55 as being obvious in view of the combination of Bartels, et al. (US 4,621,632) in view of Bell, et al. (US 6,039,696). Claims 32 and 53 (the independent claims) have been amended to require that gas be directed from a laparoscopic insufflator into a chamber.

During laparoscopic surgery a constant pressure is required. A laparoscopic insufflator, therefore, is a device that tries to keep a constant pressure in the pneumoperitoneum. The desired pressure is set, the laparoscopic insufflator is turned on, the desired pressure is reached, and the laparoscopic insufflator is turned off. It comes on again during surgery any time the pressure in the pneumoperitoneum drops below a desired level, for example, due to a leak in the pneumoperitoneum, such as from an incision. When it comes on, it is at the constant pressure that it was set at.

In contrast, Bartels '632 discloses a humidifier for use in a respiratory circuit, where the pressure through the device will vary from zero to maximum, and back to zero, depending on the patient's breathing. A ventilator is disclosed. The portion of Bartels '632 from column 8, line 28, through column 9, line 41 is particularly instructive as to the operation of Bartels '632. Bell '696 discloses an apparatus for measuring humidity in a ventilator circuit.

Neither Bartels, et al. '632 nor Bell, et al. '696 disclose a laparoscopic insufflator, therefore, the combination suggested by the Examiner can not produce the construction as now claimed, even if, for the sake of argument, any motivation to combine could be found.

The Examiner has rejected Claim 44 as being obvious in view of the combination of Bartels, et al. '632 with Bell, et al. '696 and Ott '474. Claim 44 is a dependent claim, depending on now allowable Claim 32, and at least for this reason is allowable.

Claims 32-44 and 53-55 have been rejected by the Examiner as obvious in view of the combination of Ott '474 and Bell, et al. '696. The Examiner states that, "Bell teaches a humidity sensing means and a monitoring means for the monitoring the humidity of the gas and keeping it within a determined threshold." It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the [humidity] device of Ott '474 [Bartels, et al.] to monitor humidity by a humidity sensing means as taught by Bell, et al. while keeping the humidity within a determined range or threshold for the well known purpose of preventing a cavity that is normally moist from drying out thereby causing inflammation causing discomfort such as the respiratory system or otherwise.

The Examiner is courteously asked to note the apparently mistaken reference to Bartels, et al. The Applicant has corrected this above, and has treated the current rejection as one of obviousness over Ott '474 and Bell '696.

Bell '696 is only concerned with the measurement of humidity in the artificial airway of the patient. Bell is not concerned with how to provide the humidity in the artificial airway. Thus, there is no motivation to combine Ott '474 with Bell '696.

In addition, while for longer term monitoring (and this is not defined) Bell can provide an alarm when the humidity falls below a minimum humidity level, there is no teaching of connecting this with the cause of the low humidity. Therefore, combining Ott '474 with Bell '696 would still not produce the construction claimed. The Examiner's comments concerning a re-charge signal are noted. It is respectfully pointed out, however, that Claim 53 claims a

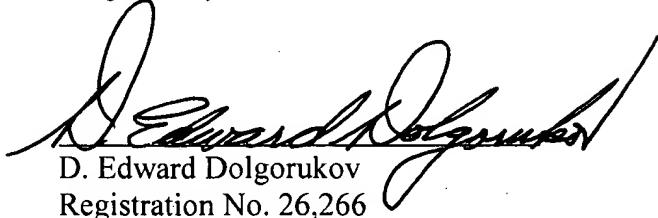
construction that produces an audio or visual signal (the type of alarm is not defined in Bell ('696) to indicate that the chamber is going dry. Therefore, Claims 32-44 and 53-55 are allowable.

Lastly, the Examiner has rejected Claims 56-61 as being obvious in view of the combination of Bartels, et al. '632 with Daniell, et al. '260 and Rusz, et al. '168. Claim 56 has been amended to require the directing of a gas from a laparoscopic insufflator into a chamber. Neither Bartels, et al., Daniell, et al., nor Rusz, et al. show a laparoscopic insufflator. Therefore, the combination suggested by the Examiner, even if, for the sake of argument, there was motivation to combine, would not produce the construction claimed. Therefore, Claims 56-61 must be allowed.

It is respectfully pointed out that not one piece of art has been found, despite the already lengthy prosecution of the present application, where in the field of laparoscopic surgery, there has been shown a device that supplies a humidifying fluid, monitors the humidity of the humidified medium during surgery, and indicates by an audio or visual signal, when the chamber holding the humidifying fluid is about to go dry. The inventor, Dr. Ott, has made a tremendous contribution to the field of laparoscopic surgery with the '474 patent, and in view of the lack of pertinent references, is clearly entitled to have a patent issue on the present invention. In view of the fact that this application is before a new Examiner, if the present application is not in condition for allowance, an interview with the Examiner is specifically requested.

In view of the above amendments, and the remarks explanatory thereof, a favorable reconsideration of the present application, and the passing of this case to issue, is courteously solicited.

Respectfully submitted,



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